



राजपत्र, हिमाचल प्रदेश (समाधारण)

हिमाचल प्रदेश राज्यपाल द्वारा प्रकाशित

शिमला, मंगलवार, 4 अप्रैल, 1995/14 चैत्र, 1917

हिमाचल प्रदेश सरकार

विधि विभाग
विधायी (संवेजी) अनुभाग

अधिसूचना

सिमला-4 अप्रैल, 1995

विधि संख्या एल० एम० आर० डी० (6) 21/94-लेजिस्लेशन.— हिमाचल प्रदेश के राज्यपाल, भारत के संविधान के अनुच्छेद 201 के अधीन राष्ट्रपति द्वारा तारीख 22 मार्च, 1995 को यथा अनुमोदित हिमाचल प्रदेश अधिसूचना

891-राजपत्र/95-4-4-95—1,397.

(15-13)

मूल्य : 1 रुपया।

और भूमि सुधार (संशोधन) विधेयक, 1994 (1994 का विधेयक संख्यांक 16) को वर्ष 1995 के हिमाचल प्रदेश अधिनियम संख्यांक 6 के रूप में संविधान के अनुच्छेद 348(3) के अधीन उसके अंग्रेजी प्राधिकृत पाठ सहित, हिमाचल प्रदेश राजपत्र में प्रकाशित करते हैं

आदेश द्वारा,
कुलदीप चन्द सूद,
सचिव।

1994 का अधिनियम संख्यांक 6

हिमाचल प्रदेश अभिवृत्ति और भूमि सुधार (संशोधन) अधिनियम, 1994

(राष्ट्रपति महोदय द्वारा तारीख 22 मार्च, 1995 को यथा अनुमोदित)

हिमाचल प्रदेश टैनेन्सी ऐण्ड लैंड रिफार्मिंग ऐक्ट, 1972 (1974 का 8) का और संशोधन करने के लिए अधिनियम ।

भारत गणराज्य के पैंतालीसवें वर्ष में हिमाचल प्रदेश विधान सभा द्वारा निम्नलिखित रूप में यह अधिनियमित हो :—

1. इस अधिनियम का संक्षिप्त नाम हिमाचल प्रदेश अभिवृत्ति और भूमि सुधार संक्षिप्त नाम (संशोधन) अधिनियम, 1994 है ।
2. हिमाचल प्रदेश टैनेन्सी ऐण्ड लैंड रिफार्मिंग ऐक्ट, 1972 (जिसे इसमें इसके धारा 118 पश्चात् मूल अधिनियम कहा गया है) में,—

(i) उप-धारा (1) और (2) के स्थान पर निम्नलिखित प्रतिस्थापित की जाएगी, अर्थात् :—

“(1) Notwithstanding anything to the contrary contained in any law, contract, agreement, custom or usage for the time being in force, but save as otherwise provided in this Chapter, no transfer of land (including transfer by a decree of a civil court or for recovery of arrears of land revenue) by way of sale, gift, will, exchange, lease, mortgage with possession, creation of a tenancy or in any other manner shall be valid in favour of a person who is not an agriculturist.

Explanation.—For the purpose of this sub-section, the expression “transfer of land” shall include,—

- (a) a benami transaction in which land is transferred to an agriculturist for a consideration paid or provided by a non-agriculturist; and
- (b) an authorisation made by the owner by way of special or general power of attorney or by an agreement with the intention to put a non-agriculturist in possession of the land and allow him to deal with the land in the like manner as if he is a real owner of that land.

(2) Nothing in sub-section (1) shall be deemed to prohibit the transfer of land by any person in favour of,—

- (a) a landless labourer; or
- (b) a landless person belonging to a scheduled caste or a scheduled tribe; or
- (c) a village artisan; or
- (d) a landless person carrying on an allied agricultural pursuit; or

- (e) the State Government or Central Government, or a Government Company as defined in section 617 of the Companies Act, 1956 or a statutory body or Corporation or Board established by or under a statute and owned and controlled by the State or Central Government; or 1 of 1956
- (f) a person who has become non-agriculturist on account of acquisition of his land for any public purpose under the Land Acquisition Act, 1894 ; or 1 of 1894
- (g) a non-agriculturist who purchases or intends to purchase land for the construction of a house or shop, or purchases a built up house or shop, from the Himachal Pradesh State Housing Board, established under the Himachal Pradesh Housing Board Act, 1972, or from the Development Authority constituted under the Himachal Pradesh Town and Country Planning Act, 1977 or from any other statutory Corporation set up for framing and execution of house accommodation schemes in the State under any State or Central enactment; or 10 of 1972
12 of 1977
- (h) a non-agriculturist with the permission of the State Government for the purposes that may be prescribed :

Provided that a person who is non-agriculturist but purchases land either under clause (g) or with the permission granted under clause (h) of this sub-section shall, irrespective of such purchase of land, continue to be a non-agriculturist for the purposes of this Act :

Provided further that a non-agriculturist in whose case permission to purchase land is granted under clause (h) of this sub-section, shall put the land to such use for which the permission has been granted within a period of two years or a further such period not exceeding one year, as may be allowed by the State Government for reasons to be recorded in writing, to be counted from the day on which the sale deed of land is registered and if he fails to do so or diverts, without the permission of the state Government, the said user for any other purpose or transfer by way of sale, gift or otherwise, the land so purchased by him shall, in the prescribed manner, vest in the State Government free from all encumbrances.” ;

- (ii) in sub-section (3) the words, brackets and figure “and such transfer shall be void *ab initio* and the land involved in such transfer, if made in contravention of sub-section (1), shall, together with structures, buildings or other attachments, if any, vest in the State Government free from all encumbrances ” shall be omitted ;
- (iii) after sub-section (3), the following sub-sections (3A), (3B), (3C), and (3D) shall be added, namely :—

“(3A) Where—

- (a) the Registrar or the Sub-Registrar, appointed under the Indian Registration Act, 1908, before whom any document pertaining to transfer of land is presented for registration, comes to know or has reason to believe that the transfer of land is in contravention of sub-section (1); or 10 of 1973

- (b) a Revenue officer either on an application made to him or on receipt of any information from any source, comes to know or has reason to believe that any land has been transferred or is being transferred in contravention of the provisions of sub-section (1) ;

such Sub-Registrar, the Registrar or the Revenue Officer, as the case may be, shall make reference to the Collector of the District, in which land or any part thereof is situate, and the Collector, on receipt of such reference or where the Revenue officer happens to be the Collector of the District himself, he either on an application made to him or on receipt of any information from any source comes to know or has reason to believe that any land has been transferred or is being transferred in contravention of the provisions of sub-section (1), shall after affording to the persons who are parties to the transfer, a reasonable opportunity of being heard and holding an enquiry, determine whether the transfer of land is or, is not in contravention of sub-section (1) and he shall, within 90 days from the date of receipt of reference made to him or such longer period as the Divisional Commissioner may allow for reasons to be recorded in writing, record his decision thereon and intimate the findings to the Registrar, Sub-Registrar or the Revenue Officer concerned.

- (3B) The person aggrieved by the findings recorded by the Collector, that a particular transfer of land is in contravention of the provisions of sub-section (1), may, within a period of 30 days from the date on which the order recording such findings is made by the Collector or such longer period as the Divisional Commissioner may allow for reasons to be recorded in writing file an appeal to the Divisional Commissioner, to whom such Collector is subordinate, and the Divisional Commissioner may, after giving the parties an opportunity of being heard and, if necessary, after sending for the records of the case from the Collector and after making such enquiry as he thinks fit either personally or through an officer working under him, reverse, alter or confirm the order made by the Collector.

- (3C) The person aggrieved by the decision of the Divisional Commissioner in appeal under sub-section (3B), may, within a period of 30 days from the date of such decision or such longer period as the Financial Commissioner may allow for reasons to be recorded in writing, file an appeal to the Financial Commissioner who may, after giving the parties an opportunity of being heard and, if necessary, after sending for the records of the case and after making such enquiry as he may think fit, reverse, alter or confirm the order made by the Divisional Commissioner and the order made by the Financial Commissioner shall be final and conclusive.

(3D) Where the Collector of the District under sub-section (3A), in case an appeal is not made within the prescribed period, or the Divisional Commissioner in appeal under sub-section (3B), or the Financial Commissioner in appeal under sub-section (3C), decides that the transfer of land is in contravention of the provisions of sub-section (1), such transfer shall be void *ab initio* and the land involved in such transfer together with structure, buildings or other attachments, if any, shall in the prescribed manner, vest in the State Government free from all encumbrances." ; and

(iv) in sub-section (4),—

(a) for the brackets and figure "(3)", the figure, brackets and letter "(3D)" shall be substituted, and

(b) for the explanation the following shall be substituted, namely:—

"*Explanation.*—For the purpose of this section, the expression "land" shall include—

(i) land recorded as "Gair-mumkin", "Gair-mumkin Makan" or any other Gair-mumkin land, by whatever name called in the revenue records; and

(ii) land which is a site of a building in a town or a village and is occupied or let out not for agricultural purposes or purposes subservient to agriculture".

(3) मूल अधिनियम की धारा-121 के पश्चात् निम्नलिखित नई धारा-121-A अन्तःस्थापित की जाएगी, अर्थात्:—

"121-A. Bar of Jurisdiction.— Save as otherwise expressly provided in this Chapter, the validity of any proceedings or orders taken or made under this Chapter shall not be called in question in any civil court or before any other authority".

धारा 121-A
का अन्तः-
स्थापन ।

AUTHORITATIVE ENGLISH TEXT

Act No. 6 of 1995.

**THE HIMACHAL PRADESH TENANCY AND LAND REFORMS
(AMENDMENT) ACT, 1994**

(AS ASSENTED TO BY THE PRESIDENT ON 22ND MARCH, 1995)

AN

Act

*further to amend the Himachal Pradesh Tenancy and Land Reforms Act, 1972
(Act No. 8 of 1974).*

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Forty-fifth Year of the Republic of India, as follows :—

1. This Act may be called the Himachal Pradesh Tenancy and Land Reforms (Amendment) Act, 1994.

Short title.

8 of 1974

2. In section 118 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (hereinafter referred to as the principal Act,—

Amend-
ment of
section 118.

(i) for sub-sections (1) and (2), the following shall be substituted, namely :—

“(1) Notwithstanding anything to the contrary contained in any law, contract, agreement, custom or usage for the time being in force, but save as otherwise provided in this Chapter, no transfer of land (including transfer by a decree of a civil court or for recovery of arrears of land revenue) by way of sale, gift, will, exchange, lease, mortgage with possession, creation of a tenancy or in any other manner shall be valid in favour of a person who is not an agriculturist.

Explanation.—For the “purpose of this sub-section, the expression “transfer of land” shall include,—

(a) a benami transaction in which land is transferred to an agriculturist for a consideration paid or provided by a non-agriculturist; and

(b) an authorisation made by the owner by way of special or general power of attorney or by an agreement with the intention to put a non-agriculturist in possession of the land and allow him to deal with the land in the like manner as if he is a real owner of that land.

(2) Nothing in sub-section (1) shall be deemed to prohibit the transfer of land by any person in favour or,—

(a) a landless labourer; or

(b) a landless person belonging to a scheduled caste or a scheduled tribe; or

(c) a village artisan; or

(d) a landless person carrying on an allied agricultural pursuit; or

- (e) the State Government or Central Government, or a Government company as defined in section 617 of the Companies Act, 1956 or a statutory body or a Corporation or a Board established by or under a statute and owned and controlled by the state or Central Government; or 1 of 1956
- (f) a person who has become non-agriculturist on account of acquisition of his land for any public purpose under the land Acquisition Act, 1894; or 1 of 1894
- (g) a non-agriculturist who purchases or intends to purchase land for the construction of a house or shop, or purchases a built up house or shop, from the Himachal Pradesh State Housing Board established under the Himachal Pradesh Housing Board Act, 1972, or from the Development Authority constituted under the Himachal Pradesh Town and Country Planning Act, 1977 or from any other statutory Corporation set up for framing and execution of house accommodation schemes in the State under any State or Central enactment; or 10 of 1972
12 of 1977
- (h) a non-agriculturist with the permission of the State Government for the purposes that may be prescribed:

Provided that a person who is non-agriculturist but purchases land either under clause (g) or with the permission granted under clause (h) of this sub-section shall, irrespective of such purchase of land, continue to be a non-agriculturist for the purpose of this Act :

Provided further that a non-agriculturist in whose case permission to purchase land is granted under clause (h) of this sub-section, shall put the land to such use for which the permission has been granted within a period of two years or a further such period not exceeding one year, as may be allowed by the State Government for reasons to be recorded in writing to be counted from the day on which the sale deed of land is registered and if he fails to do so or diverts, without the permission of the State Government, the said user for any other purpose or transfer by way of sale, gift or otherwise, the land so purchased by him shall, in the prescribed manner, vest in the State Government free from all encumbrances.”;

- (ii) in sub-section(3) the words, brackets and figure “and such transfer shall be void *ab-initio* and the land involved in such transfer if made in contravention of sub-section (1). shall together with structures, buildings or other attachments, if any, vest in the State Government free from all encumbrances” shall be omitted;

- (iii) after sub-section (3), the following sub-sections (3A), (3B), (3C), and (3D) shall be added, namely:—

“(3A) Where—

- (a) the Registrar or the sub-Registrar, appointed under the Indian Registration Act, 1908, before whom any document pertaining to transfer of land is presented for registration, comes to know or has reason to believe that the transfer of land is in contravention of sub section (1); or

16 of 1908

- (b) a Revenue officer either on an application made to him or on receipt of any information from any source, comes to know or has reason to believe that any land has been transferred or is being transferred in contravention of the provisions of sub-section (1) ;

such Sub-Registrar, the Registrar or the Revenue Officer, as the case may be, shall make reference to the Collector of the District, in which land or any part thereof is situate, and the Collector, on receipt of such reference, or where the Revenue officer happens to be the Collector of the District himself, he either on an application made to him or on receipt of any information from any source, comes to know or has reason to believe that any land has been transferred or is being transferred in contravention of the provisions of sub-section (1), shall after affording to the persons who are parties to the transfer, a reasonable opportunity of being heard and holding an enquiry, determine whether the transfer of land is or is not in contravention of sub-section (1) and he shall, within 90 days from the date of receipt of reference made to him or such longer period as the Divisional Commissioner may allow for reasons to be recorded in writing, record his decision thereon and intimate the findings to the Registrar, Sub-Registrar or the Revenue Officer concerned.

- (3B) The person aggrieved by the findings recorded by the Collector, that a particular transfer of land is in contravention of the provisions of sub-section (1), may, within a period of 30 days from the date on which the order recording such findings is made by the Collector or such longer period as the Divisional Commissioner may allow for reasons to be recorded in writing file an appeal to the Divisional Commissioner, to whom such Collector is subordinate, and the Divisional Commissioner may, after giving the parties an opportunity of being heard and, if necessary, after sending for the records of the case from the Collector and after making such enquiry as he thinks fit either personally or through an officer working under him, reverse, alter or confirm the order made by the Collector.
- (3C) The person aggrieved by the decision of the Divisional Commissioner in appeal under sub-section (3B), may, within a period of 30 days from the date of such decision or such longer period as the Financial Commissioner may allow for reasons to be recorded in writing, file an appeal to the Financial Commissioner who may, after giving the parties an opportunity of being heard and, if necessary, after sending for the records of the case and after making such enquiry as he may think fit, reverse, alter or confirm the order made by the Divisional Commissioner and the order made by the Financial Commissioner shall be final and conclusive.

(3D) Where the Collector of the District under sub-section (3A), in case an appeal is not made within the prescribed period, or the Divisional Commissioner in appeal under sub-section (3B), or the Financial Commissioner in appeal under sub-section (3C), decides that the transfer of land is in contravention of the provisions of sub-section (1), such transfer shall be void *ab initio* and the land involved in such transfer together with structures, buildings or other attachments, if any, shall in the prescribed manner, vest in the State Government free from all encumbrances.”; and

(iv) in sub-section (4),—

- (a) for the brackets and figure “(3)”, the figure, brackets and letter “(3D)” shall be substituted ; and
- (b) for the explanation, the following shall be substituted, namely:—

“Explanation.—For the purpose of this section, the expression “land” shall include—

- (i) land recorded as “Gair-mumkin”, “Gair-mumkin Makan” or any other Gair-mumkin land, by whatever name called in the revenue records; and
- (ii) land which is a site of a building in a town or a village and is occupied or let out not for agricultural purposes or purposes subservient to agriculture.”.

Insertion
of section
121-A

(3) After section 121 of the principal Act, the following new section 121-A shall be added, namely:—

“121-A. *Bar of Jurisdiction.*—Save as otherwise expressly provided in this Chapter, the validity of any proceedings or orders taken or made under this Chapter shall not be called in question in any civil court or before any other authority.”.